

MINUTES OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA
FOR MEETING HELD ON TUESDAY EVENING, NOVEMBER 18, 2008

The City Council met at 5:00 pm, on the above-mentioned date, for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and for a Conference with Legal Counsel pursuant to Government Code Section 54956.9(b); Anticipated Litigation - City as potential defendant in one case (number of distinct cases or potential cases to be discussed).

The Council then met at 7:00 pm for a regular meeting in the City Hall Council Chambers. The meeting was opened with the recitation of the Pledge of Allegiance and the reading of an Invocation-Prayer.

Present: Council Members Dominic J. Caserta, Will Kennedy, Patrick Kolstad, Joe Kornder, Jamie McLeod and Kevin Moore and Mayor Patricia M. Mahan.

Staff present: City Manager, Deputy City Manager, Director of Planning and Inspection, Acting Director of Public Works - Tom Supan, City Attorney and City Clerk/Auditor.

- 3.A MOTION was made by Kolstad, seconded and carried with Caserta and Mahan abstaining (not present at the meeting), that the Minutes for the special meeting held on October 7, 2008 be adopted as written.

- 3.B MOTION was made by Kolstad, seconded and unanimously carried, that the Minutes for the meeting held on October 14, 2008 be adopted as written.
- 4.A. MOTION was made by Kennedy, seconded and unanimously carried, that, per the Housing and Community Services Division Manager (11/14/08), the Council reschedule the public hearing to December 2, 2008 for consideration of the Housing and Community Needs Assessment for Fiscal Year 2009-10 Federal Entitlement Funds.
- 5.A As a Special Order of Business, the Council proceeded with the presentation of "Those Who Inspire" Recognition Award to Emma Kaliterna for her outstanding service to the Community. The Mayor reviewed the "Those Who Inspire" Recognition Award program and the Chief of Police reviewed his memo (11/13/08) outlining the many accomplishments of Ms. Kaliterna. Ms. Kaliterna then addressed the Council to accept the award. Photographs were then taken. MOTION was made by Kornder, seconded and unanimously carried, that the Council award Emma Kaliterna with the "Those Who Inspire" Recognition Award. She received a standing ovation.
- 5.B Also as a Special Order of Business, the Council proceeded with the Santa Clara Women's League presentation of a donation check for the Health and Wellness Programs at the Senior Center. Thelma Sorich, Women's League President, presented the check to the Council and provided a brief history of the Women's League (provided handout). Photographs were then taken.
- 5.C Also as a Special Order of Business, the Council proceeded with the Acting Director of Parks and Recreation's memo (10/23/08) regarding the presentation of funds to local charities from the 2008 Santa Clara Art and Wine Festival Proceeds. Chuck Seymour, Chair of the Parks and Recreation Commission, addressed the Council acknowledging all of those involved with making this year's Art and Wine festival a success. The following groups were presented with a donation to help support the City's youth: Santa Clara Schools Foundation, Santa Clara High School Grad Night Committee, Wilcox High School Grad Night Committee, Santa Clara Police Athletic League and Friends of Santa Clara Parks and Recreation. Comments were made by representatives of each recipient group. Photographs were then taken.

5.D Also as a Special Order of Business, the Council proceeded with the acceptance of the Quarterly Status Report for the Council Principles and Priorities for 2007-09. Mayor Mahan stated that she would be abstaining (owns property within 500 feet of subject property) on any discussion or action related to the Council priority to explore options for Morse Mansion use and/or purchase and Council priority to achieve progress on downtown revitalization through selection of master developer. Council Member Caserta said that he would also be abstaining (owns property within 500 feet of subject property) on discussion or action related to the Council priority to explore options for Morse Mansion use and/or purchase and Council priority to achieve progress on downtown revitalization through selection of master developer. Council Member McLeod stated that she would be abstaining (domestic partner has a source of income from an agency involved with the Bay Area Research Extension Center [BAREC] project) on the Council priority to emphasize strong commitment to affordable housing and to complete the Bay Area Research Extension Center process with senior housing element, specifically related to the Belovida Senior Apartment Project and the BAREC development project. The City Manager reviewed her memo (11/11/08) and answered Council questions. MOTION was then made by Moore, seconded and carried with Mayor Mahan and Council Member Caserta abstaining (own property within 500 feet of subject property) on the Council priority to explore options for Morse Mansion use and/or purchase and Council priority to achieve progress on downtown revitalization through selection of master developer and with Council Member McLeod abstaining (domestic partner has a source of income from an agency involved with the BAREC project) on the Council priority to emphasize strong commitment to affordable housing and to complete the Bay Area Research Extension Center (BAREC) process with senior housing element, specifically related to the Belovida Senior Apartment Project and the BAREC development project, that the Council **accept** the Quarterly Status Report and **set** January 27, 2009 for the next quarterly status report.

6.A As an item of Unfinished Business, Steve Hazel addressed the Council with a request to reconsider the action of the October 28, 2008 Council meeting regarding the approval of the Fourth Amendment to the Affordable Housing Loan Agreement with Community Home Partners, LLC for the Pacific Gardens Senior Housing Project. No action was taken.

6.B Also as an item of Unfinished Business, the Council proceeded to consider the Director of Planning and Inspection's memo (11/14/08) regarding the continuance of the appeal of variance approval for increased height for the proposed roller coaster at California's Great America to February 24, 2009. The City Manager reviewed the Director of Planning and Inspection's memo on the project. A Council discussion followed and the City Manager answered Council questions. Timothy A. Tosta, of Luce, Forward, Hamilton & Scripps, LLP., and Bill Lentz, Vice-President and General Manager of California's Great America, addressed the Council in support of the continuance. Steve Hazel addressed the Council with concern regarding the public comment process. MOTION was made by Caserta, seconded and unanimously carried, that the Council continue the appeal hearing on the project to February 24, 2009 to allow time for the parties to explore options and to again meet with the Architectural Review Committee, with the option of holding an Architectural Review Committee meeting earlier if feasible, to define and agree upon a preferred option to resolve concerns regarding noise and visual effects upon the appellant's office property.

6.C Also as an item of Unfinished Business, the Council proceeded to consider the Director of Planning and Inspection's memo (11/12/08) regarding the findings of the Big Box Retail Economic Analysis provided by Keyser Marston Associates and set a Council interim policy that supercenter retail proposals be referred to Council for action when they meet the minimum criteria (185,000 square feet overall/55,000 square feet grocery) set forth in the Keyser Marston report. The City Manager introduced the item and reviewed the agenda memo. She also noted that the Council received a letter and proposed Ordinance by South Bay Labor Council dated November 11, 2008 asking that the Council consider a Big Box Ordinance. She then clarified that the staff recommendation for this evening's meeting did not include adoption of the proposed Ordinance. Bob Wetmore, Keyser Marston Associates, gave an electronic presentation reviewing the findings of the analysis conducted. Mr. Wetmore then answered Council questions. The City Manager then made further comments on the subject matter and gave an electronic presentation regarding the staff recommendation. The City Manager and the City Attorney answered Council questions. The following people addressed the Council in support of a proposed Ordinance: James Rowen, Sarah Muller, Tony Alexander, Jeff Soares, Elise Blazek, Marc Moran, Joanie Greco, John Cowiskey, Bill Caravalho, Mary Creasman, and Kevin Park. A Council discussion followed and the City Manager answered further Council questions. MOTION was made by Caserta, seconded and carried with Kennedy dissenting, that the Council accept the

findings provided by Keyser Marston Associates; refer to the City Manager to return to Council with an interim policy recommendation within two weeks and proposed Ordinance by January 27, 2009; and incorporate the items in the General Plan Update process.

- 6.D Also as an item of Unfinished Business, the Council proceeded to consider the Acting Director of Parks and Recreation's memo (10/28/08) regarding the approval to place a hold on the International Swim Center (ISC) Pool Replacement Project Design. The City Manager introduced the item and reviewed the memo. The following people addressed the Council in support of the project: Mark Bucher, Frances Sargent, John Bitter and Steve Clark. A Council discussion followed and the City Manager answered Council questions. MOTION was made by Caserta, seconded and unanimously carried, that the Council approve placing a hold on the International Swim Center (ISC) Pool Replacement Project Design; contact the International Swim Hall of Fame (ISHOF) representatives to discuss their concept and funding options for the construction of a combined facility; review alternate site locations for a combined facility and report the results of the International Swim Hall of Fame combined project option and an alternate site study for the combined facility, with initial cost estimates and funding options.
- 7.A.1 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Finance (10/20/08), the Council **accept** the September 2008 financial status reports.
- 7.A.2 MOTION made by Kennedy, seconded and unanimously carried, that, per the Senior Staff Aide (11/06/08), the Council **approve** and authorize the publication of the proposed January 2009 Mission City SCENES.
- 7.A.4 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Planning and Inspection (10/23/08), the Council **approve** the request by Greg Malley, property owner, to withdraw the application to adopt a Mitigated Negative Declaration and rezone the property located at 2585 El Camino Real from CT (Thoroughfare Commercial) to PD (Planned Development) for development of a four-story mixed use project with ground floor retail and 60 condominium units above (APN: 216-01-008, PLN2007-06419).

- 7.A.5 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Finance (11/14/08), the Council **accept** the Santa Clara Convention Center and Convention/Visitors Bureau (SCCC-CVB) First Quarter Activity Report for Fiscal Year 2008-09 as submitted by the Santa Clara Chamber of Commerce and Convention Visitors Bureau.
- 7.A.6 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Finance (11/13/08), the Council **accept** the Santa Clara Convention Center and Convention/Visitors Bureau (SCCC-CVB) Fourth Quarter and Full Fiscal Year 2007-08 Activity Report as submitted by the Santa Clara Chamber of Commerce and Convention Visitors Bureau.
- 7.A.8 MOTION made by Kennedy, seconded and unanimously carried, that, per the Human Resources Division Manager (10/28/08), the Council **approve** the Stipulations with Request for Award, based on the recommendation of the City's Worker's Compensation legal counsel, to settle the claims for the injuries that Dennis Yoshida, Retired Police Officer, sustained on June 7, 2001, September 22, 2004 and May 4, 2005.
- 7.A.9 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Finance (10/31/08), the Council **approve** the renewal of earthquake and flood Difference in Conditions (DIC) insurance for the period of November 18, 2008 - November 19, 2009 for the Grizzly Hydroelectric Plant and **authorize** payment to Alliant Insurance Services in the amount of \$82,654.69 for insurance premium payment.
- 7.A.10 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (11/10/08), the Council **approve** the revised Environmental Stewardship and Renewable Portfolio Standard (RPS) Policy Statement.
- 7.A.11 MOTION made by Kennedy, seconded and unanimously carried, that, per the Housing and Community Services Division Manager (10/23/08), the Council **approve** the publication of the Public Notice of Availability of the Community Development Block Grant (CDBG) and Home Investment Partnerships Act (HOME) Funding in appropriate media and authorize the City Manager to distribute the 2009-10 Application Form.

- 7.B.2 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (11/06/08), the Council **approve**, and authorize the City Manager to execute, an Interconnection Agreement with Ameresco Santa Clara, LLC to allow connection to the City's distribution system.
- 7.B.3 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (10/30/08), the Council **approve**, and authorize the City Manager to execute, Amendment No. 1 to the Agreement with Siemens Water Technologies Corporation to increase the contract amount by \$100,000 for a total amount not to exceed \$150,000 to provide maintenance and service to the demineralized water tanks at the generation facilities.
- 7.B.4 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Streets and Automotive Services (10/28/08), the Council **approve**, and authorize the City Manager to execute, Call No. 08-3 with Adhara Systems, Inc., in an amount not to exceed \$25,000, to integrate the StreetSaver Database with ArcView to give Geographic Information Services (GIS) capabilities to the Pavement Management Program.
- 7.B.5 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (11/06/08), the Council **approve**, and authorize the City Manager to execute, a Call Agreement with Paragon Partners Ltd; Call No. 08-1, in an amount not to exceed \$148,800, for inspection of overhead facilities services for non-power utilities attachments; Call No. 08-2, in an amount not to exceed \$135,300, for a pilot audit of overhead and underground facilities inspection data in support of Geographic Information Systems (GIS) mapping and operations requirements and Call No. 08-3, in an amount not to exceed \$109,400, for inspection of fiber optic attachments to existing poles.
- 7.B.6 MOTION made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (11/10/08), the Council **approve**, and authorize the City Manager to execute, an LM6000 Sprint Engine Lease Agreement with GE Energy, in an amount not to exceed \$350,000, for providing gas turbine equipment for the Donald Von Raesfeld (DVR) Power Plant.

- 7.B.7 **MOTION** made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (10/30/08), the Council **approve**, and authorize the City Manager to execute, Amendment No. 1 to the Second Phase Agreement with Northern California Power Agency to increase the contract amount by \$2,941,176 for funding the planning and development activities of the Lodi Energy Center (LEC).
- 7.B.8 **MOTION** made by Kennedy, seconded and unanimously carried, that, per the Director of Public Works/City Engineer (11/12/08), the Council **approve**, and authorize the City Manager to execute, a Service Agreement with Syserco, Inc., in an amount not to exceed \$125,200 for the installation of a building management system for the City Hall West Wing and the Old Courthouse Building as part of the City Hall Heating and Cooling Systems (HVAC) System Replacement Project and **authorize** the City Manager to make minor non-substantive modifications, if necessary.
- 7.B.9 **MOTION** made by Kennedy, seconded and unanimously carried, that, per the Acting Director of Human Resources (11/10/08), the Council **approve**, and authorize the City Manager to execute, a Legal Services Agreement with Meyers, Nave, Riback, Silver & Wilson, in an amount not to exceed \$125,000 to provide labor relations, labor contract negotiations services, and other related legal matters.
- 7.B.10 **MOTION** made by Kennedy, seconded and unanimously carried, that, per the Director of Electric Utility (11/10/08), the Council **approve** the Plans and Specifications for Public Works Contract 2004A for the Fiber Optic Backbone Installation of Substructures and Cable Masters Construction Agreement Project and **authorize** the advertisement for bids.
- 7.C.1 **MOTION** was made by Kennedy, seconded and unanimously carried, that the Council **note and file** the Director of Electric Utility's (11/10/08) Informational Memo entitled, "Amendment to Planned Development (PD) Zoning Approval for 1468 Lafayette Street (PLN2008-07222 Salvatore Caruso) Installation of Electrical Conduits in Street Frontage (September 30, 2008 City Council Agenda Item 6.B) "
- 7.D.1 **MOTION** was made by Kennedy, seconded and unanimously carried, that the Youth Commission Minutes for the meeting held on October 14, 2008 be adopted as written.

- 7.D.2 **MOTION** was made by Kennedy, seconded and unanimously carried, that the Cultural Advisory Commission Minutes for the meeting held on October 6, 2008 be adopted as written.
- 7.D.3 **MOTION** was made by Kennedy, seconded and unanimously carried, that the Parks and Recreation Commission Minutes for the meeting held on October 21, 2008 be adopted as written.
- 7.D.4 **MOTION** was made by Kennedy, seconded and unanimously carried, that the Youth Commission Minutes for the meeting held on August 26, 2008 be adopted as written.
- 7.D.5 **MOTION** was made by Kennedy, seconded and unanimously carried, that the Youth Commission Minutes for the meeting held on September 16, 2008 be adopted as written.
- 8.A **PUBLIC HEARING:** The Mayor declared the hearing open for consideration of Director of Planning and Inspection's memo (11/14/08) regarding upholding the Planning Commission's recommendation to approve the time extension for up to two years of a Planned Development (PD) zoning approval for 2250 El Camino Real to construct 45 dwelling units as part of a four-story residential development condominium project with podium parking subject to conditions including amending condition number 52 (PLN2008-07285). With no public comment, **MOTION** was made by Caserta, seconded and unanimously carried that the public hearing be closed. **MOTION** was then made by Caserta to approve upholding the Planning Commission recommendation for 2250 El Camino Real as listed above.
- 9.A The Council proceeded to consider the Written Petition submitted by Van Langston, of the Pepper Tree Neighborhood Association, regarding a request for a 30 day extension to the Draft Environmental Impact Report deadline for the Gallery at Central park, 900 Kiely Boulevard (former Kaiser Hospital site). The City Manager reviewed the Director of Planning and Inspection's memo (11/13/08). Mr. Langston addressed the Council with his formal request. A Council discussion followed and the City Manager answered Council questions. Steve Hazel addressed the Council with general comments. Kevin Park and Oscar Bazurto addressed the Council in support of the extension. A Council discussion followed. The City Manager answered further Council questions. **MOTION** was made by McLeod, seconded and unanimously carried, that the Council allow an additional two weeks, for a total of a one month extension, setting December 19, 2008 as the deadline for comments to the Draft Environmental Impact Report for the project at 900 Kiely Boulevard.

- 10.A MOTION was made by Caserta, seconded and unanimously carried, that, per the Director of Electric Utility (11/12/08), the Council appropriate and transfer \$6,000,000 from the Electric Cost Reduction Utility (account 591-13XX-80300-2375); award, and authorize the City Manager to execute, the Public Works Contract 2375B to Henkels & McCoy in the amount of \$5,237,868.30 and authorize the City Manager to approve any change orders associated with the contract up to 15% of the total contract amount.
- 11.A MOTION made by Caserta, seconded and unanimously carried, that, per the recommendation contained in the Civil Service Commission Minutes for the meeting held on November 10, 2008, the Council approve the modification to the job specification for Customer Service Supervisor, Police Sergeant, Electric Utility Equipment Operator; the modification to the title change from Water and Energy Conservation Coordinator to Energy Conservation Coordinator and updated job specification; and the modification to the job specification for Public Works Inspector. The Minutes were then duly noted and filed.
- 11.B In consideration of the International Exchange Commission Minutes, the City Manager reviewed the Commission's recommendation to approve funding for travel to Izumo, Japan. She noted that the current budget included funds for one City Council Member and one Commissioner to travel. MOTION was made by Caserta, seconded and unanimously carried, that, per the recommendation contained in the International Exchange Commission (IEC) Minutes for the meeting held on November 10, 2008, the Council approve funding for and assign a City Delegation consisting of one or more Council Member(s) and one or more IEC Commissioner(s) to travel to Izumo, Japan at a cost of approximately \$2,200 each to attend the celebration of Mr. Kuwabara's 25th Anniversary as President of the International Exchange Association of Izumo on May 16, 2009; refer to the City Manager any requests for funding of more than one Council Member and one Commissioner; and note and file the Minutes for the Commission meeting of November 10, 2008.
- 11.C MOTION was made by Caserta, seconded and unanimously carried, that the Planning Commission Minutes for the meeting held on October 22, 2008 be adopted as written.

12.(7.A.3) The Council proceeded to consider the Director of Electric Utility's memo (11/12/08) regarding the use of City Electric forces for the installation of facilities at various locations. Van Langston addressed the Council with concerns regarding the process. MOTION was made by Caserta, seconded and unanimously carried, that the Council **approve** the use of City Electric forces for the installation of facilities at 1201 Comstock Street, 3170 Molinaro Street, 2630 Walsh Avenue, 900 Kiely Boulevard, 1025 Walsh Avenue and Sonoma Place and Wallace Street.

12.(7.A.7) The Council proceeded to consider the Director of Public Works/City Engineer's memo (11/12/08) regarding the approval of Final Map - Tract 9972 for property located at 90 North Winchester Boulevard (portion of APN 303-17-048). Council Member McLeod informed the Council that she would be abstaining on the issue (domestic partner has a source of income from Charities Housing, involved with the project site) and stepped off the dais. Steve Hazel and Kirk Vartan (provided handout) addressed the Council in opposition to subject project. The Acting Director of Public Works answered Council questions. MOTION was made by Caserta, seconded and carried with McLeod abstaining (domestic partner has a source of income from Charities Housing, involved with the project site) that the Council **approve** the Final Map Tract 9972; **authorize** the City Manager to make minor modifications, if necessary; and **authorize** the recordation of the same for the Planned Development (PD) of 110 single family residences on an approximately 9.91 acre parcel located at 90 North Winchester Boulevard by SummerHill Homes (SAM2007-01095/PLN2007-06295/APN 303-17-048).

Council Member McLeod returned to the dais.

12.(7.B.1) The Council proceeded to consider the Director of Finance's memo (10/30/08) regarding the approval of Amendment No. 3 to the Agreement with Moreland Temporary Services, Inc. The City Manager reviewed the memo. MOTION was made by Caserta, seconded and unanimously carried, that the Council **approve**, and authorize the City Manager to execute, Amendment No. 3 to the Agreement with Moreland Temporary Services, Inc. to increase the contract amount by \$90,000 for a total amount not to exceed \$200,000 for consulting services through June 30, 2009.

13.A Under Public Presentations, James Rowen addressed the Council regarding results and turnout relating to the November 2008 Election and Steve Hazel addressed the Council with general concerns.

14.A The Council proceeded to consider the Director of Planning and Inspection's memo (11/10/08) regarding the Santa Clara Station Area Plan Update. Council Member Caserta and Mayor Mahan informed the Council that they would be abstaining from any discussion or action on the subject matter (residences within 500 feet of the subject project site) and stepped off the dais. Vice-Mayor Kornder presided over the meeting. **MOTION** was made by Moore, seconded and carried with Caserta and Mahan abstaining (residences within 500 feet of the subject project site), that the Council **approve** additional City share of costs of \$30,970 in funding for the City's share of a Joint Agencies Santa Clara Station Area Plan and Environmental Impact Report and **approve** the transfer of \$30,970 from the Regional Traffic Impact Fee trust account to fund additional appropriations in the Santa Clara Station Area Plan Study project in the Traffic Mitigation Capital Projects Fund.

Council Member Caserta and Mayor Mahan returned to the dais.

14.B **MOTION** was made by Caserta, seconded and unanimously carried, that per the Director of Finance (11/10/08), the Council **approve** the transfer of \$786,380 from the General Contingency Reserve for Working Capital (Emergency Reserve) and \$213,620 from the proprietary fund retained earnings, \$800,000 to the Workers' Compensation Fund cash account and \$200,000 to Unemployment Insurance Fund cash account to replenish Internal Service Fund Reserves.

14.C **MOTION** was made by Caserta, seconded and unanimously carried, that per the Director of Finance (11/10/08), the Council **approve** the transfer of \$3,750,871 to the General Contingency Reserve for Working Capital (Emergency Reserves) and \$4,076,617 to the General Contingency Reserve for Capital Projects from General Fund Operating Cash, effective June 30, 2008.

15.A **MOTION** was made by Caserta, seconded and unanimously carried, that the Council **approve** the payment of Bills and Claims and Progress Payments as submitted.

16. Council Member Kornder provided report regarding Big Horn Wind Power Projects.

Mayor Mahan noted the Veteran's Day ceremony held on November 11, 2008 at the Veteran's Memorial, Central Park.

16.B The Council proceeded to consider recommendation of the Council Officers & Elected Full-Time Employees Performance/Salary Review Committee regarding the proposed salary merit increases for City Manager, City Attorney, City Clerk/City Auditor and additional vacation allotment for the Chief of Police. The City Attorney stated that due to the Political Reform Act, the City Attorney and City Manager would be stepping off the dais prior to Council discussion and action on this item. She stated that due to the clerical obligations of the City Clerk/Auditor, she considered his presence to be legally required during the Council discussion but that he would step off the dais prior to the Council action. The City Attorney and City Manager then stepped off the dais. The Assistant City Manager reviewed the memo and Council Member McLeod, Chair of the Council Officers & Elected Full-Time Employees Performance/Salary Review Committee, reviewed the Committee's recommendation. A Council discussion followed. Sandy Myers addressed the Council with general comments on the current recommendations, the City's total compensation plan and the salaries of all other City employees. Steve Hazel addressed the Council with general concerns. Prior to the motion and vote of the subject matter, the City Clerk/Auditor also stepped off the dais. **MOTION** was made by McLeod, seconded and unanimously carried, that the Council **approve** the following salary merit increases effective with the next pay period: City Attorney, Helene Leichter, a 10% salary increase, monthly salary from \$17,222 to \$18,944; Chief of Police, Steve Lodge, a benefit increase equivalent to 5% of total compensation awarded as three and one half weeks of vacation, in addition to the current vacation leave (cost of awarded vacation leave at current hourly rate is \$15,860.60 if converted to cash. Additional vacation can be converted to cash beyond the limits in Unit 9A's Memorandum of Understanding); City Clerk/City Auditor, Rod Diridon, Jr., a 10% salary increase, monthly salary from \$10,029 to \$11,032, with an additional increase effective the first pay period following July 1, 2009, salary increase to be determined based on comparison of current City Clerk/Auditor salary to retired City Clerk/Auditor salary if she had remained in the position and received Unit 9 (MISC) salary adjustments; and City Manager, Jennifer Sparacino, a 10% salary increase, monthly salary from \$20,386 to \$22,425, with an additional increase of 5% effective with the first pay period following July 1, 2009.

The City Attorney, City Clerk and City Manager returned to the dais.

16.C The Council proceeded to consider the Council Member Caserta's request (11/14/08) to authorize a correction to the Council Minutes of November 16, 2004 regarding abstention by Council Member Caserta from taking action on the Mills Act Contract pertaining to his primary residence located at 936 Fremont Street. Council Member Caserta informed the Council that he would be abstaining on any discussion and action on the subject matter and stepped off the dais. The City Manager reviewed Council Member Caserta's memo on the subject matter and a Council discussion followed. The City Attorney reviewed the process should the Council authorize the proposed correction to the Minutes. The City Clerk/Auditor gave an overview of the City's records retention process and issues relating to the amendment of Minutes. The City Attorney answered further Council questions. Kirk Vartan addressed the Council against the proposed correction (provided handout). John McLemore addressed the Council stating that his recollection was the Council Member Caserta did vote on the Mills Act Contract for the subject property and he read notes on behalf of Aldyth Parle indicating that she also recalled that Council Member Caserta voted on the item. Steve Hazel addressed the Council with concerns regarding process. A Council discussion followed. The City Clerk/Auditor clarified the process should the Council request an amended set of Minutes. A further Council discussion followed. MOTION was made by Kolstad, seconded and carried with Kennedy and McLeod dissenting and Caserta abstaining (requestor of proposed action), that a set of amended Minutes of the November 16, 2004 City Council meeting, noting Council Member Caserta's abstention on the Mills Act Contract for the property located at 936 Fremont Street, be brought before the Council by or at the December 2, 2008 Council meeting for consideration. The Council duly noted and filed the correspondence received on the subject (Executive Assistant to the Mayor and City Council (11/18/08)).

Council Member Caserta returned to the dais.

18.A The City Attorney stated that the Council held earlier in the evening at 5:00 pm a **Closed Session** in the Council Conference Room for 1) Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and that there was no reportable action; 2) Conference

with Agency Labor Negotiator pursuant to Government Code Section 54957.6; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association) and that there was no reportable action; and 3) Conference with Legal Counsel (Anticipated Litigation) pursuant to Government Code Section 54956.9(b) City as potential defendant in one case (number of distinct cases or potential cases to be discussed) and that there was no reportable action.

MOTION was made by Caserta, seconded and unanimously carried, that, per the City Attorney (10/31/08), the Council set November 25, 2008 at 5:00 pm for a Closed Session in the Council Conference Room for a Conference with Real Property Negotiator pursuant to Government Code Section 54956.8 regarding Property: APN 104-43-051, APN 104-43-052, APN 104-43-030, APN 104-42-014 and APN 104-42-019; Negotiating Party(ies): Cedar Fair and the San Francisco 49ers; City Negotiator: Jennifer Sparacino, City Manager (or her designee); Under Negotiation: Purchase/Sale/Exchange/Lease of Real Property (provisions, price and terms of payment) and for a Conference with Agency Labor Negotiator pursuant to Government Code Section 54957.6 for a Conference with Agency Labor Negotiator, City Negotiator: Jennifer Sparacino, City Manager (or her designee); Employee Organization(s): Unit #3 - IBEW Local 1245 (International Brotherhood of Electrical Workers), Unit #4 - City of Santa Clara Professional Engineers, Units #5, 7 & 8 - City of Santa Clara Employees Association, Unit #6 - AFSCME Local 101 (American Federation of State, County and Municipal Employees), Unit #9 - Miscellaneous Unclassified Management Employees and Unit #10 - PSNSEA (Public Safety Non-Sworn Employees Association).

- 18.B MOTION was made by Caserta, seconded and unanimously carried, that, per Mayor Mahan (11/13/08), the Council set Tuesday, November 25, 2008 at 5:00 pm for a Closed Personnel Session for the purpose of conducting the City Manager's annual performance appraisal.

19.A MOTION was made by Caserta, seconded and unanimously carried, that there being no further business, the meeting was adjourned at 11:45 pm in **Memory of Dean E. Armann** (head of the tax program at the Senior Center for 20 years), **Joyce C. Drake** (member of Santa Clara Woman's Club, Women's League and Emblem Club), **James J. Jensen** (retired in 1986 with 29 years of service from the City of Santa Clara, Engineering Department), **Lee C. Rosenthal** (Partner in Goldfarb & Lipman LLP who has been actively working with the City of Santa Clara and its Redevelopment Agency on discussions regarding the San Francisco 49ers stadium proposal) and **Sid Agrawal, Brian Pugh and Marilyn Lewis** (homicide victims at SiPort, Inc in Santa Clara on Friday, November 14, 2008) to Tuesday, **November 25, 2008** at 5:00 pm for a Closed Session in the Council Conference Room and to 7:00 pm for the regular scheduled meeting in the City Hall Council Chambers.

ATTEST: _____
City Clerk

APPROVE: _____
Mayor